

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

B.S. INGERSOLL, LLC

:

CIVIL ACTION

:

v.

:

:

GREAT AMERICAN INSURANCE CO.

:

NO. 22-771

**ORDER**

**AND NOW**, this 7th day of March 2023, upon consideration of Defendant's Rule 12(b)(6) Motion to Dismiss (Docket No. 7) and all documents filed in connection therewith, and for the reasons stated in the accompanying Memorandum, **IT IS HEREBY ORDERED** that the Motion is **GRANTED** as follows:

1. The Motion to Dismiss is **GRANTED WITHOUT PREJUDICE**. Plaintiff may file, within twenty (20) days of the date of this Order, an amended complaint that includes any facts that it believes should be considered with respect to its position that Great American Insurance Co. waived the Lease Bond Limitations Period.

2. If Plaintiff fails to timely file an amended complaint, the Motion will be granted with prejudice and this action will be **DISMISSED**.

3. Defendant's Motion to File Reply in Support of Its Rule 12(b)(6) Motion to Dismiss (Docket No. 10) is **GRANTED**. The Clerk shall file the Reply attached to the Motion.

4. Plaintiff's Motion to File Sur-Reply (Docket No. 11) is **GRANTED**. The Clerk shall file the Sur-Reply attached to the Motion.

BY THE COURT:

/s/ John R. Padova

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John R. Padova, J.